Prepared Statement of John L. Garvin

Deputy Assistant Secretary for Multifamily Housing Programs
Senior Advisor to the Federal Housing Commissioner
U.S. Department of Housing and Urban Development

Hearing before the Committee on Financial Services
United States House of Representatives

Affordable Housing Preservation and Protection of Tenants

June 19, 2008

Chairman Frank, Ranking Member Bachus, distinguished members of the Committee on Financial Services, on behalf of Secretary Preston, thank you for inviting the Department to testify on the draft legislation entitled "Housing Preservation and Tenant Protection Act of 2008." We appreciate this opportunity to provide the Committee with the Department's comments on this very important issue.

Secretary Preston and Commissioner Montgomery are firmly committed to preserving affordable housing, and moreover increasing the production of new affordable units. Historically, the Department's rental housing programs have been designed primarily to develop subsidized projects that have long-term rent affordability requirements. Therefore, the Department has focused on retaining these properties as affordable for as long as possible, and has worked with Congress to develop tools and incentives to maintain affordability in cases of rental assistance contract expirations. These efforts have resulted in over 90 percent of our owners renewing their project-based Section 8 contracts. Although these tools and incentives do not specifically address mortgage maturity, some of these incentive programs such as the Mark to Market and the Section 236 Decoupling have extended the affordability requirements beyond the maturity of the insured mortgage.

To date, the Department has been very pleased with the success of the role of these programs preserving the affordable housing stock. We have over 2,300 projects with over 200,000 units processed under the Mark to Market Program, over 730 projects with approximately 73,000 units processed under the Section 236 Decoupling Program and approximately 761 projects with some 80,187 units processed under the Mark Up to Market Program. In these three programs combined, the Department has preserved the affordability of over 3,500 projects with about 300,000 units.

However, the Department does acknowledge the need to continue its efforts to preserve as well as develop affordable rental housing units in communities throughout the country.

There are many factors that influence an owner's decision to retain a property as affordable or convert to market rate rents. For a profit-motivated owner, the decision may be influenced by financial considerations, the condition of the property and the income levels in the surrounding neighborhood. For a non-profit owner, the decision is not likely influenced by cash flow consideration since these owners are not primarily motivated by economic returns and their basic mission is to provide affordable housing. These factors apply to mortgage maturity, pre-payments or opt-outs.

We also recognize that most owners need to refinance prior to their mortgages maturing in order to obtain the necessary funding for capital improvements. And the Department recognizes that most preservation transactions utilize Low-Income Housing Tax Credits and we have and will continue to be making program changes to maximize the efficiency of utilizing those programs with HUD programs. The Department is encouraging owners to refinance with FHA insurance and Low-Income Housing Tax Credits to ensure the preservation of the projects as well as the long-term affordability. We understand that combining these two funding sources can be challenging and the Department is currently streamlining the processing of FHA insurance applications when the owner is also using the Low-Income Housing Tax Credits. For example, we are also working to provide relief in escrow requirements for these transactions and are looking to provide the utmost flexibility in underwriting when these programs are used in combination in a preservation transaction.

The Department also has issued a policy to provide for the deferment of the repayment of Flexible Subsidy Loans which provides relief on the debt service. We are also are working on revising the Section 236 Decoupling Notice to improve this preservation tool especially when it is combined with Low-Income Housing Tax Credits.

HUD is aware of the growing population of seniors in this country and the need to develop and preserve senior housing. We have issued a unit conversion policy that allows for the alteration of under-utilized efficiencies to one-bedrooms in primarily in elderly housing projects where the conversion will result in long term preservation and affordability. And we are working on a demonstration program for mixed financing with the Section 202 program.

One of HUD's most effective preservation tools has been the Mark-to-Market program. There is legislation now pending in Congress that would further extend and expand the use of Mark-to-Market and the Department is generally supportive of the intent of the bill.

While many of the Department's current preservation tools provide incentives to extend affordability, they do not directly address the termination of the affordability requirements resulting from mortgage maturity. However, these programs do provide incentives to owners to continue to provide affordable housing on a long-term basis and beyond the mortgage repayment while improving the physical and financial viability of the properties. These incentives have substantially decreased the actual numbers of insured mortgages that would normally be maturing in the next 10 years.

In the event of a mortgage prepayment, opt-out or maturity, the residents have been and will remain the Department's highest priority. If an owner is going to prepay the mortgage or opt-out of the Section 8 rental assistance contract, the owner must notify tenants at least one year in advance of their intent to prepay or opt-out. In these situations, tenants may qualify for enhanced or tenant protection vouchers.

Currently, there is no statutory requirement for the Department to offer residents special protections, such as enhanced vouchers, when a mortgage matures. To the extent Congress would require and fund enhanced vouchers as legislation requires in opt-outs, the Department would provide those vouchers to eligible residents.

In the event of a foreclosure, the residents are a top priority for the Department. If there is project-based rental assistance, the Department attempts to retain the rental assistance at the project. However, if there are conditions that warrant that the residents be relocated and the rental assistance is terminated, the Department provides relocation assistance to all residents (assisted or non-assisted) and provides vouchers to the eligible HUD-assisted residents.

In summary, there is always a need to add new preservation tools as well as improve existing tools to adapt to the changing market and to be prepared to offer incentives to owners who have maturing mortgages. There is no cookie cutter approach to preservation transactions. We are committed to continue to work with Congress, our housing partners and state and local governments on the development and preservation of affordable rental housing. Thank you for the opportunity to appear today.